

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

CRUZ VALDEZ-GONZALEZ,
TATIANA CASAS and
MARVIN MENDEZ

Plaintiffs,

No. D-202-CV-2017-04519

vs.

PATRICK M. CONWAY JR. and
FORWARD AIR SOLUTIONS INC.

Defendants.

COMPLAINT FOR PERSONAL INJURIES

COME NOW the Plaintiffs, CRUZ VALDEZ-GONZALEZ, TATIANA CASAS and MARVIN MENDEZ, by and through their attorneys, McBRIDE, SCICCHITANO & LEACOX, P.A. (Nicholas A. Norden, Esq.), and sue Defendants, PATRICK M. CONWAY JR and FORWARD AIR SOLUTIONS INC, alleging as follows:

FACTS COMMON TO ALL CLAIMS

1. That the Plaintiff, CRUZ VALDEZ-GONZALEZ, is a resident of Albuquerque, County of Bernalillo, State of New Mexico.
2. That the Plaintiff, TATIANA CASAS, is a resident of Albuquerque, County of Bernalillo, State of New Mexico.
3. That the Plaintiff, MARVIN MENDEZ, is a resident of Albuquerque, County of Bernalillo, State of New Mexico.
4. That upon information and belief, the Defendant, PATRICK M. CONWAY JR, is a resident of Phoenix, County of Maricopa, State of Arizona.

EXHIBIT A

5. That upon information and belief, the Defendant, FORWARD AIR SOLUTIONS INC, is a Registered Carrier, doing business in the State of New Mexico.

6. The incident giving rise to this Complaint occurred on Interstate 40, near the Coors Blvd NW overpass, in the city of Albuquerque, County of Bernalillo, State of New Mexico.

7. This Court has jurisdiction over all parties and matters herein.

8. That on September 14, 2016, Plaintiff, CRUZ VALDEZ-GONZALEZ, was operating a vehicle that was traveling east on Interstate 40, near the Coors Blvd NW overpass, in the city of Albuquerque, County of Bernalillo, State of New Mexico.

9. That Plaintiff, TATIANA CASAS, was a lawfully restrained passenger in the vehicle driven by Plaintiff, CRUZ VALDEZ-GONZALEZ.

10. That Plaintiff, MARVIN MENDEZ, was a lawfully restrained passenger in the vehicle driven by Plaintiff, CRUZ VALDEZ-GONZALEZ.

11. That another vehicle, a tractor trailer operated by Defendant, PATRICK M. CONWAY JR, was also traveling east on Interstate 40, near the Coors Blvd NW overpass, in the city of Albuquerque, County of Bernalillo, State of New Mexico, directly behind Plaintiffs' vehicle.

12. The Defendant, PATRICK M. CONWAY JR, carelessly operated his vehicle when Defendant rear-ended Plaintiffs' vehicle, causing a multi-car accident and causing Plaintiff's vehicle to strike the concrete barrier.

13. That upon information and belief, the vehicle which Defendant, PATRICK M. CONWAY JR, was operating is owned by Defendant, FORWARD AIR SOLUTIONS INC.

14. At all times material hereto, Defendant, PATRICK M. CONWAY JR, was an employee of Defendant, FORWARD AIR SOLUTIONS INC, acting either in the course and scope

of his employment, or within the course and scope of his duties as an employee, agent, supervisor or both.

15. As a result of this collision, Plaintiffs sustained personal injuries, including physical and mental pain and suffering, which required medical treatment.

COUNT I:

NEGLIGENCE AND NEGLIGENCE PER SE AGAINST DEFENDANT,

PATRICK M. CONWAY JR

16. Plaintiffs reallege and reassert Paragraphs 1 – 15 of Facts Common to All Claims as though fully set forth herein.

17. On September 14, 2016, and at all times material hereto, Defendant, PATRICK M. CONWAY JR, owed a duty to exercise reasonable care in the operation, maintenance, control and/or use of the vehicle for the benefit of other individuals on the public roadways, including the Plaintiffs.

18. Defendant, PATRICK M. CONWAY JR, breached said duty to the Plaintiffs when he rear-ended Plaintiffs' vehicle.

19. The collision which is the subject matter of Plaintiffs' Complaint for Personal Injuries and subsequent injuries was proximately caused by one or more of the following negligent acts or omissions on the part of Defendant, in that Defendant:

- a. Failed to give his full time and entire attention to the operation of a motor vehicle in violation of §66-8-114(A) N.M.S.A. (1978);
- b. Failed to use ordinary care in the operation of his vehicle giving due care to the traffic and road conditions in violation of §66-8-114(B) N.M.S.A. (1978);

- c. Followed another vehicle more closely than was reasonable and prudent in violation of § 66-7-318 N.M.S.A. (1978).

20. As a result of the negligence of Defendant, PATRICK M. CONWAY JR, Plaintiffs were injured and suffered physical injuries, as well as mental and emotional suffering, loss of household services, lost wages and loss of enjoyment of life.

21. Said injuries sustained by Plaintiffs required, and may continue to require, medical treatment and Plaintiffs have incurred substantial medical bills.

COUNT II:

NEGLIGENCE AND NEGLIGENCE PER SE AS TO DEFENDANT, FORWARD

AIR SOLUTIONS INC

22. Plaintiffs reallege and reassert Paragraphs 1 – 15 of Facts Common to All Claims as though fully set forth herein.

23. On September 14, 2016, and at all times material hereto, Defendant, PATRICK M. CONWAY JR, was operating a tractor trailer vehicle within his course and scope of employment with Defendant FORWARD AIR SOLUTIONS INC, with its permission and consent.

24. Defendant, FORWARD AIR SOLUTIONS INC, is directly and vicariously liable for Plaintiffs' damages pursuant to the doctrine of *Respondeat Superior*.

25. The automobile collision which is the subject matter of Plaintiffs' Complaint for Personal Injuries and subsequent injuries was proximately caused by one or more of the following negligent acts or omissions on the part of Defendant, in that Defendant, PATRICK M. CONWAY JR:

- a. Failed to give his full time and entire attention to the operation of a motor vehicle in violation of §66-8-114(A) N.M.S.A. (1978);

- b. Failed to use ordinary care in the operation of his vehicle giving due care to the traffic and road conditions in violation of §66-8-114(B) N.M.S.A. (1978).
- c. Followed another vehicle more closely than was reasonable and prudent in violation of § 66-7-318 N.M.S.A. (1978).

26. As a result of the negligence of Defendant, PATRICK M. CONWAY JR, Plaintiffs were injured and suffered physical injuries, as well as mental and emotional suffering, loss of household services, lost wages and loss of enjoyment of life.

27. Said injuries sustained by Plaintiffs required, and may continue to require, medical treatment and Plaintiffs have incurred substantial medical bills.

COUNT III:

NEGLIGENT ENTRUSTMENT AS TO DEFENDANT, FORWARD AIR

SOLUTIONS INC

28. Plaintiffs reallege and reassert Paragraphs 1 – 15 of Facts Common to All Claims as though fully set forth herein.

29. Upon information and belief, on or about September 14, 2016, and at all times material hereto, Defendant, PATRICK M. CONWAY JR, was operating a tractor trailer vehicle owned and/or furnished by Defendant, FORWARD AIR SOLUTIONS INC, with its permission, knowledge and consent.

30. Defendant, PATRICK M. CONWAY JR, was operating the aforesaid tractor trailer vehicle in a negligent manner and such negligence was a direct and proximate cause of the damages and injuries sustained by the Plaintiffs.

31. Upon information and belief, Defendant, FORWARD AIR SOLUTIONS INC, did know, or should have known, that Defendant, PATRICK M. CONWAY JR, would operate the tractor trailer vehicle in a negligent manner.

32. Due to the negligent acts and/or omissions of Defendant, PATRICK M. CONWAY JR, Plaintiffs were injured and suffered physical injuries, as well as mental and emotional suffering, loss of household services, lost wages and loss of enjoyment of life.

33. Said injuries sustained by Plaintiffs required, and may continue to require, medical treatment and Plaintiffs have incurred substantial medical bills.

WHEREFORE, Plaintiffs prays that this Court find for them and against Defendants, and enter a Judgment in favor of Plaintiffs for the following relief:

A. Damages in an amount sufficient to compensate Plaintiffs for past medical losses and for physical and mental pain and suffering;

B. Damages in an amount that will compensate Plaintiffs for future losses, including incidental and consequential damages;

C. Plaintiffs' costs incurred in this action;

D. Pre-judgment and post-judgment interest at the statutory rate per annum or as the trial court may, in its discretion, award; and

E. For such other and further relief as this Court deems just and reasonable.

Respectfully submitted,

McBRIDE, SCICCHITANO & LEACOX, P.A.

/s/Nicholas A. Norden, Esq.

Nicholas A. Norden, Esq.
Attorney for Plaintiff
2155 Louisiana Boulevard NE, Suite 2200
Albuquerque, New Mexico 87110
Telephone: (505) 796-8092

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

CRUZ VALDEZ-GONZALEZ, TATIANA CASAS and
MARVIN MENDEZ

Plaintiffs,

No. D-202-CV-2017-04519

vs.

PATRICK M. CONWAY JR. and
FORWARD AIR SOLUTIONS INC.

Defendants.

CERTIFICATION REGARDING ARBITRATION UNDER RULE 603

COMES NOW, NICHOLAS A. NORDEN, ESQ. from MCBRIDE, SCICCHITANO &
LEACOX, P.A., attorney for the Plaintiffs, CRUZ VALDEZ-GONZALEZ, TATIANA CASAS and
MARVIN MENDEZ, and certifies as follows:

_____ This case is subject to referral to arbitration under Local Rule 603. No party seeks relief other than a monetary judgment and no party seeks an award in excess of Twenty-Five Thousand Dollars (\$25,000.00), inclusive of punitive damages and exclusive of interest, costs and attorney's fees.

X_____ This case is not subject to referral to arbitration under Local Rule 603 because at least one party seeks relief other than a money judgment and/or at least one party seeks an award in excess of Twenty-Five Thousand Dollars (\$25,000.00), inclusive of punitive damages and exclusive of interest, costs and attorney's fees.

Respectfully submitted,

McBRIDE, SCICCHITANO & LEACOX, P.A.

/s/ Nicholas A. Norden

Nicholas A. Norden, Esq.
Attorney for Plaintiff
2155 Louisiana Boulevard NE, Suite 2200
Albuquerque, New Mexico 87110
Telephone: (505) 796-8092

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

CRUZ VALDEZ-GONZALEZ,
TATIANA CASAS and
MARVIN MENDEZ

Plaintiffs,

No. D-202-CV-2017-04519

vs.

PATRICK M. CONWAY JR. and
FORWARD AIR SOLUTIONS INC.

Defendants.

JURY DEMAND

COME NOW, the Plaintiffs, CRUZ VALDEZ-GONZALEZ, TATIANA CASAS and MARVIN MENDEZ, by and through their attorneys of record, MCBRIDE, SCICCHITANO & LEACOX, P.A. (Nicholas A. Norden, Esquire), and hereby demands a trial by a jury of six (6) persons in the above-entitled and numbered cause of action.

Respectfully submitted,

MCBRIDE, SCICCHITANO & LEACOX, P.A.

/s/ Nicholas A. Norden, Esquire

Nicholas A. Norden, Esquire

Attorney for Plaintiff

2155 Louisiana Boulevard, NE, Suite 2200

Albuquerque, New Mexico 87110

Telephone: (505) 796-8092

AFFIDAVIT OF SERVICE

State of New Mexico

County of Bernalillo

Second Judicial District Court

Case Number: D-202-CV-2017-04519

Plaintiff:

CRUZ VALDEZ-GONZALEZ, TATIANA CASAS and MARVIN MENDEZ

vs.

Defendant:

PATRICK M. CONWAY JR. and FOWARD AIR SOLUTIONS INC.

For:

Yamileth Sanchez

McBride, Scicchitano, & Leacox, P.A.

2155 Louisiana Boulevard N.E., Suite 2200

Albuquerque, NM 87110

Received these papers on the 6th day of July, 2017 at 3:00 pm to be served on Forward Air Solutions Inc c/o Registered Agent, Cogency Global, Inc., 1012 Marquez Place, Suite 106b, Santa Fe, NM 87505.

I, Nathan Quinn, being duly sworn, depose and say that on the 6th day of July, 2017 at 6:00 pm, I:

served an **AUTHORIZED** entity by delivering a true copy of the **Summons & Complaint, Jury Demand, and Discovery** to: **Robert Ptacek** at the address of: **1012 Marquez Place, Suite 106b, Santa Fe, NM 87505**, who stated they are authorized to accept service for **Forward Air Solutions Inc**, and informed said person of the contents therein, in compliance with state statutes.

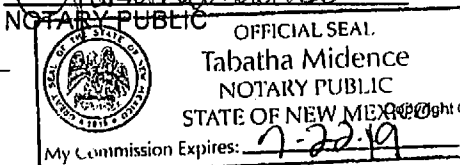
Additional Information pertaining to this Service:

7/6/2017 6:00 pm Nathan Quinn served Forward Air Solutions Inc c/o Registered Agent, Cogency Global, Inc. at 1012 Marquez Place, Suite 106b, Santa Fe, NM 87505 by hand delivering documents to Robert Ptacek, as authorized.

Description of Person Served: Age: 60, Sex: M, Race/Skin Color: White, Height: 5'7", Weight: 155, Hair: Grey, Glasses: Y

I certify that I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the 11th day of July, 2017 by the affiant who is personally known to me



Nathan Quinn
Process Server

Our Job Serial Number: MPP-2017010770

AFFIDAVIT OF SERVICE

State of New Mexico

County of Bernalillo

Second Judicial District Court

Case Number: D-202-CV-2017-04519

Plaintiff:

CRUZ VALDEZ-GONZALEZ, TATIANA CASAS and MARVIN MENDEZ

vs.

Defendant:

PATRICK M. CONWAY JR. and FOWARD AIR SOLUTIONS INC.

For:

Yamileth Sanchez

McBride, Scicchitano, & Leacox, P.A.

2155 Louisiana Boulevard N.E., Suite 2200

Albuquerque, NM 87110

Received these papers on the 6th day of July, 2017 at 3:00 pm to be served on Patrick M. Conway Jr., 3602 E Hearn Rd, Phoenix, AZ 85032.

I, Bryan Muth, being duly sworn, depose and say that on the 12th day of July, 2017 at 5:39 pm, I:

INDIVIDUALLY/PERSONALLY served by delivering a true copy of the **Summons & Complaint, Jury Demand, and Discovery** to: **Patrick M. Conway Jr.** at the address of: **3602 E Hearn Rd, Phoenix, AZ 85032**, and informed said person of the contents therein, in compliance with state statutes.

Additional Information pertaining to this Service:

7/12/2017 5:39 pm Bryan Muth personally served Patrick M. Conway Jr. at 3602 E Hearn Rd, Phoenix, AZ 85032.

Description of Person Served: Age: 40+, Sex: M, Race/Skin Color: White, Height: 5'8", Weight: 220, Hair: Black, Glasses: N

I certify that I am over the age of 18 and have no interest in the above action.

31 13 m
Subscribed and Sworn to before me on the 13th day of July, 2017 by the affiant who is personally known to me.


NOTARY PUBLIC


Bryan Muth
Process Server

Our Job Serial Number: MPP-2017011018

